



Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 53

Hearing Date: January 22, 2001

Committee On: Banking, Commerce and Insurance

Introducers: (Landis)

Title: Change provisions relating to banks and banking

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7 Yes Senators Landis, Tyson, Aguilar, Bourne, Bruning, Jensen,
 Kremer

No

Present, not voting

1 Absent Senator Smith

Proponents:

Senator David Landis

Sam Baird

Ron Sedlacek

Scott Sullivan

Kurt Yost

Representing:

Introducer

NE Department of Banking and Finance

NE Bankers Association

NE Credit Union League

NE Independent Community Bankers

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 53 (Landis), introduced at the request of the Department of Banking and Finance, would amend various sections within the subject of finance.

The bill provides, section by section, as follows:

Section 1 amends section 8-143.01 of the Nebraska Banking Act, which governs loans to insiders of state-chartered banks. Subsection (6) provides that the aggregate limit of loans to any

one executive officer, director, or shareholder, and to all related interests of that person, shall not exceed the lesser of the lending limit of the bank set by section 8-141 or the lending limit set by 12 U.S.C. 84 for national banks. The lending limit set by section 8-141 was previously changed to allow banks to choose between the greater of the state lending limit or the federal lending limit. Section 8-143.01 should have been amended at that time to correspond to the section 8-141 change. The amendment found in section 1 removes the incorrect language.

Section 2 amends section 8-1,140 of the Nebraska Banking Act, which is the “equal-rights” or “wild-card” statute for state-chartered banks. The provision gives state-chartered banks the same rights, powers, and privileges accorded to a national bank doing business in Nebraska as of the effective date of this bill. Due to state constitutional restrictions, the law must be re-enacted annually.

Section 3 amends section 8-208 of the Nebraska Trust Company Act to provide that real estate transfers by a trust company which are currently required to be pre-authorized by the board of directors or a committee of the board, may be post-authorized if done within ninety days of the transaction.

Section 4 amends section 8-355, which is the “equal-rights” or “wild-card” statute for state-chartered savings and loan associations. The provision gives state-chartered savings and loan associations the same rights, powers, and privileges accorded to a federal savings and loan association doing business in Nebraska as of the effective date of the bill. Due to state constitutional restrictions, the law must be re-enacted annually.

Sections 5 to 15 rename the Nebraska Sale of Checks Act (sections 8-1001 to 8-1015) as the Nebraska Sale of Checks and Funds Transmission Act, to more accurately reflect the jurisdiction of the act. Internal references are also harmonized within these sections.

Section 16 amends section 8-1101, the definitional statute for the Securities Act of Nebraska, to update, within subdivision (14) of this section, the reference to existing federal laws.

Section 17 amends section 8-1103(4)(c) of the Securities Act of Nebraska to provide that registration of investment advisers and investment adviser representatives, and notice filings of federal covered advisers, will expire annually on December 31. Currently the registrations expire one year from the date of issuance and the notices expire one year from the date of filing. Section 17 also amends section 8-1103(5) to provide that renewals of registrations under the act may be made through a registration depository designated by the Director of Banking and Finance, and that the director can determine the information required for renewal of registrations by rule, regulation, or order. These changes will assist the Department of Banking and Finance in continuing to implement electronic registration filing systems with other states.

Section 18 amends section 8-1108.01 of the Securities Act of Nebraska relating to cease and desist orders issued under the act, to change the time for setting a hearing from fifteen business days to thirty business days after the department’s receipt of a request for hearing, unless a later date is consented to by the parties or set by the hearing officer for good cause.

Current law provides that the hearing is to be set within fifteen business days of receipt of such a request and makes no provision for a later time period. This amendment is one of a series of amendments throughout the bill intended to make uniform hearing procedures for laws under the department's jurisdiction.

Section 19 amends section 8-1109.02 of the Securities Act of Nebraska relating to revocation and suspension of securities registration statements. The amendment provides that hearings on such orders are to be held within thirty business days after the department's receipt of request for hearing, unless a later date is consented to by the parties or set by the hearing officer for good cause. Current law sets no time period for the hearings. This amendment is one of a series of amendments throughout the bill intended to make uniform hearing procedures for laws under the department's jurisdiction.

Section 20 amends section 8-1110 of the Securities Act of Nebraska relating to exemptions from securities registration requirements. The amendments update and clarify cross-references within the "blue-chip" exemption contained currently within subdivision (6) of this section.

Section 21 amends section 8-1735 of the Commodity Code relating to hearing procedures. This amendment changes the time period in which an interested party must request a hearing from fifteen business days to thirty business days from the entry of an order, and provides that a hearing date can be set later than thirty business days after the department's receipt of a request for a hearing if the parties consent or if the hearing officer finds good cause to do so. This section is part of the series of amendments throughout the bill intended to make uniform the hearing procedures for laws under the department's jurisdiction.

Section 22 amends section 21-17,103 of the Credit Union Act which sets reserve requirements under the act to provide that the formula and calculations will be as set under federal law. The amendment further authorizes the Department of Banking and Finance to require higher levels of reserves if it is found that the financial condition of the credit union warrants such a level. Current law sets a number of different formulas depending on the age of the credit union. These requirements have occasionally conflicted with federal law requirements for insured credit unions.

Section 23 amends section 21-17,115 of the Credit Union Act, which is the "equal-rights" or "wild-card" statute for state-chartered credit unions. The provision gives state-chartered credit unions the same rights, powers, and privileges accorded to a federal credit doing business in Nebraska as of the effective date of this bill. Due to state constitutional restrictions, the law must be re-enacted annually.

Section 24 amends section 45-190 of the loan broker statutes to narrow the definition of a loan broker to include only those persons who assist potential borrowers in making loan applications. The current definition includes persons who consult with or advise potential borrowers, and has been found to be overly broad.

Section 25 amends section 45-191.02 of the loan broker statutes to increase the filing fee for disclosure documents from \$50 to \$150, to allow the Department Banking and Finance to better meet its costs in this area.

Section 26 amends section 45-191.04 of the loan broker statutes to provide a three-day right of cancellation of a loan brokerage agreement and the language that must be included within the notice of this right. The amendment also requires that loan brokerage agreements contain information as to the terms and conditions of payment, the services to be provided by the loan broker, the address of the loan broker and its Nebraska agent for service of process, and the business form of the loan broker.

Section 27 amends section 45-191.09 of the loan broker statutes to provide that a hearing under these sections will be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. Current law provides that the hearing is to be set within fifteen business days of receipt of such a request and makes no provision for the hearing officer to set a later date. This amendment is one of a series of amendments in the bill intended to make uniform hearing procedures under the department's jurisdiction.

Section 28 amends section 45-717 of the Nebraska Mortgage Bankers Registration and Licensing Act to provide that a request for a hearing under the act must be made within fifteen business days after entry of the order, rather than the current ten business days, and that the hearing under the act will be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. Current law provides that the hearing is to be set within ten business days of receipt of such a request and makes no provision for a later time period. This amendment is one of a series of amendments in the bill intended to make uniform hearing procedures under the department's jurisdiction.

Section 29 amends section 45-902 of the Delayed Deposit Services Licensing Act by to change the phrase "shall mean" to "means" in the act's definitions in order to coordinate with guidelines of the Bill Drafters Office.

Section 30 amends section 45-906 of the Delayed Deposit Services Licensing Act to increase the fee for an initial application for a license under the act from \$300 to \$500 to allow the Department of Banking and Finance to better meet its costs in this area. The section also amends provisions relating to the required surety bond. Current law requires an annual refiling of the bond and provides a thirty-day grace period if a bond is not refilled. The amendments provide that (i) a continuous surety bond may be filed with the department; (ii) if a continuous bond is filed and remains in effect, a new bond does not have to be filed annually; and (iii) if a surety bond is not in effect, the licensee must immediately cease doing business and surrender its license or have its license cancelled.

Section 31 amends section 45-910 of the Delayed Deposit Services Licensing Act to provide for the cancellation of a license issued under the act, and to increase the fee for a renewal application for a license from \$100 to \$150.

Section 32 amends section 45-922 of the Delayed Deposit Services Licensing Act to provide that the Department of Banking and Finance may cancel a license issued under the act, without prior notice and hearing, if a licensee fails to renew its license or fails to maintain the required surety bond. The amendment also provides that termination of a license by any authorized method does not affect pre-existing obligations between the licensee and any person, nor does it affect criminal or civil liability for acts committed prior to such termination.

Section 33 amends section 45-923 of the Delayed Deposit Services Licensing Act to provide that a hearing under the act will be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. Current law provides that the hearing is to be set within fifteen business days of receipt of such a request and makes no provision for the hearing officer to set a later date. This amendment is one of a series of amendments in the bill intended to make uniform hearing procedures under the department's jurisdiction.

Section 34 amends section 59-1722 of the Seller-Assisted Marketing Plan Act to authorize the Department of Banking and Finance, following notice, hearing, and order, to deny or revoke an exemption under the act if it is in the public interest or necessary to protect purchasers. Summary orders are authorized pending final proceedings.

Section 35 amends section 59-1725.01 of the Seller-Assisted Marketing Plan Act to provide that a hearing under the act will be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. Current law provides that the hearing is to be set within fifteen business days of receipt of such a request and makes no provision for the authority of a hearing officer to set a later date. This amendment is one of a series of amendments in the bill intended to make uniform hearing procedures under the department's jurisdiction.

Section 36 amends section 59-1733 of the Seller-Assisted Marketing Plan Act to provide that the department, by rule, regulation, or order of the director, may require additional information within the disclosure document to be given by the seller of a Plan to a potential buyer.

Section 37 amends section 69-2117 of the Consumer Rental Purchase Agreement Act to provide that that a hearing under the act will be set within thirty business days of the department's receipt of the request for hearing unless a later date is consented to by the parties or set by the hearing officer for good cause. Current law provides that the hearing is to be set within fifteen business days of receipt of such a request and makes no provision for the authority of a hearing officer to set a later date. This amendment is one of a series of amendments in the bill intended to make uniform hearing procedures under the department's jurisdiction.

Section 38 provides an operative date of three calendar months after session adjournment for sections 16 to 21, 26 to 28, 34 to 37, and 39, that the remaining sections are subject to the emergency clause.

Sections 39 and 40 provides repealers of original sections.

Section 41 provides the emergency clause.

Explanation of amendments, if any:

The committee amendments would insert the provisions of LB 50 (Landis) the purpose of which is to reorganize, update, and clarify the sections of statute in Chapter 45, article 1 relating to installment loans and restructure them as the Nebraska Installment Loan Act. These amendments would also amend other parts of the statutes in order to harmonize internal references to installment loan sections.

Different parts of the current installment loan sections have appeared in Chapter 45, article 1 at various times since 1941. In some instances, installment loan sections are interspersed with sections involving completely different topics, making it difficult to readily ascertain what is and is not the current installment loan law. The committee amendments are intended to cure this confusion.

Senator David M. Landis, Chairperson